

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62177 of 2024

Arising Out of PS. Case No.-212 Year-2021 Thana- BAISI District- Purnia

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Avinash kumar @ Harinath S/o Kapil Rai @ Kapildev Singh R/o vill -
Kathnapur, P.S. - Bidupur, Distt. - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok

For the Opposite Party/s : Mr.Satyendra Narayan Singh

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 17-01-2025 Heard the parties.

2. The accused/petitioner is named in the F.I.R. and apprehending his arrest in connection with Baisi P.S. Case No. 212 of 2021 registered for the offences punishable under Section 414 of IPC and Sections 8/20(b)(ii)(c) and 25 of NDPS Act.

3. The allegation against petitioner is to have in possessions of stolen car and also commercial quantity of Ganja i.e., total of 37.353 kg along with other co-accused persons.

4. It is submitted by learned counsel appearing on behalf of the petitioner that petitioner was implicated falsely



with present case due to local political difference, as soon before the occurrence the mother of the petitioner entered into an altercation with local police who is associated with local politics. It is submitted that petitioner was not apprehended on the spot, rather his name transpired on the basis of disclosure of apprehended co-accused who was the driver of the vehicle who disclosed that person who fled away was the petitioner. While concluding arguments, it is submitted that petitioner is a man of clean antecedent and also on the date and time of occurrence the petitioner met with a road accident and received his treatment at Sadar Hospital, Vaishali and, therefore, by all probability the disclosure made by apprehended co-accused not appears *prima-facie* trustworthy. It is further submitted that co-accused Vikash Kumar was granted regular bail by this Court through Cr. Misc. No. 32719 of 2023 vide order dated 11.07.2023.

5 Learned APP, while opposing the prayer of anticipatory bail submitted that the name of petitioner transpires on the basis of disclosure of the apprehended co-



accused as he was found running away from apprehended car. It is submitted that altogether four persons including petitioner were sitting inside the vehicle from where commercial quantity of Ganja i.e., total of 37.353 kg was alleged to be recovered. It is submitted that the fact of this case suggest regarding culpable mental state of petitioner regarding possessions of contraband/Ganja, in view of Section 35 of NDPS Act and therefore, by importing the legal provisions as available under Section 37 of NDPS Act, the petitioner cannot be enlarged on bail and moreover, the investigation of this case is still under progress *qua* petitioner.

6. In view of aforesaid facts and circumstances and by taking note of fact as there is recovery of commercial quantity of Ganja from the vehicle where the petitioner was alleged to be on of the occupant, accordingly, prayer of anticipatory bail of this petitioner is **rejected**, herewith.

(Chandra Shekhar Jha, J)

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